when the law comes to be drafted, careful consideration will be paid as to who should be the person who should suffer from this disqualification.

DR. ARUN KUMAR SARMA: Mr. Chairman, Sir, this is a very serious matter because Indian with foreign origin are participating in the election and they are electing their representatives. I want to cite one example. One convict from Nepal came to Assam and settled down there. He became an M.L.A. twice; he became an M.P. Now, he can contest for the office of the President of India. So, we cannot debar them because of this flexibility in our Constitution, in our laws. There are a number of laws which are outdated, which are redundant in the present context. I would like to know one thing from the Minister and also from the hon. Prime Minister who is present in the House. It has been stated that the Government is considering constitution a commission for amending the Indian Constitution, and that is the need of the hour. We feel that this is one issue only. There are many other issues. Our Constitution should be reviewed, and if necessary, we should go in for another Constitutent Assembly. I would like to know from the hon. Minister whether they are actively considering to amend the Indian Constitution so that all these issues can be resolved once and for all and we can enter the next millennium with an updated Constitution.

SHRI RAM JETHMALANI: Sir, the hon. Member is aware that the party to which he belongs, in its manifesto has said that a commission will be appointed to review the working of the Constitution, without altering its basic character and that wherever some deficiencies are discovered, they will be set right. So, that is going to be done. But I fail to understand how this question arises out of the main question.

Sitting Judges of Supreme Court and High Courts

*22. SHRI V.N. GADGIL: Will the Minister of LAW, JUSTICE AND COMPANY AFFAIRS be pleased to state:

(a) the total number of sitting Judges of the Supreme Court and the High Courts and on August 15, 1999;

(b) the number of those out of them who belong to Scheduled Castes and Scheduled Tribes; and

(c) the number of women sitting Judges in the Supreme Court and all High Courts as on August 15, 1999?

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI RAM JETHMALANI): (a) to (c) A statement is laid on the Table of the House.

Statement

(a) and (b) The number of sitting Judges in Supreme Court and High Courts, as on August 15, 1999, was 25 and 464 respectively.

Appointment of Judges of the Supreme Court and High Courts is made under articles 124 and 217 of the Constitution of India which do not provide for reservation for any caste or class of persons. Therefore, no information is maintained for caste or class etc. The Government have, however, addressed letters to the Chief Ministers of the States and the Chief Justices of the High Courts from time to time requesting them to locate persons from the Bar belonging to Scheduled Castes, Scheduled Tribes, other Backward Classes, Minorities and Women who are suitable for appointment as High Court Judges.

(c) The number of sitting women Judges in the Supreme Court and High Courts as on August 15, 1999, was 1 and 17 respectively.

SHRI V.N. GADGIL: Sir, the statement is very disappointing. It says that no information is maintained for caste and class because there is no reservation. We all know that there is no reservation in the Judiciary. But it is surprising to find that there is no information also. For example, Justice Jagmohan Reddy, the retired Supreme Court Judge, in his autobiography gives figures as to how many brahmins, how many non-brahmins and so on are there. Then the Law Minister says that they are writing letters to the Chief Justice urging them to locate such persons. In that letter, can you not add one para saying how many Judges of Scheduled Castes and Scheduled Tribes you have so that their number can be increased? Therefore, to say that there is no information available is not satisfactory. Therefore, my first question is whether the Government will collect such information, give it to the House and urge the Supreme Court and the Judiciary to appoint more Judges of this category.

SHRI RAM JETHMALANI: Sir, I have not suggested in my answer that this information cannot possibly be collected. All that I say is that there is no practice of getting this information and culling it out from various High Courts. If the hon. Member wants that information, I will certainly be able to provide it after a few inquiries to be made from the Judges of the High Courts and the Chief Justices of the High Courts or the Chief Justice of India. Sir, I do not read all autobiographies written by Judges, but I am sure that they must be containing a lot of information on this issue. That is neither here not there.

SHRI V.N. GADGIL: I am not relying only on autobiographies. I say I would love to read the autobiography of the Law Minister if and when it comes, but I am not relying mainly on that.

Now my scond question is this. There are three High Courts the Chief Justices of which belong to Scheduled Castes. If they are competent enough to become Chief Justices of the High Courts, how is it that there is no Supreme Court Judge who belongs to a Scheduled Caste? And what does the Government purpose to do about it?

SHRI RAM JETHMALANI: Sir, I can only tell my learned friend that when things are equal, we consider a membership of that community as an additional qualification.

श्री राम नाथ कोविन्द: सभापति जी, मंत्री जी ने जो उत्तर दिया है , वह सेल्फ कंट्राडिक्ट्री है। यह बात सच है कि हाई कोर्ट और सुप्रीम कोर्ट के जजों की नियुक्ति में आरक्षण का कोई प्रावधान नहीं है, लेकिन यह भी सच है कि पूर्ववर्ती सरकारों के द्वारा अनुसूचित जाति और जनजाति के लोगों को इन पदों पर नियुक्तियां दी गई हैं। सभापति जी, यह भी सच है कि इस प्रकार का जो पत्र लिखा गया है इस सरकार द्वारा, इस प्रकार के पत्र पहले भी लिखे जा चुके थे और उसी कांटेक्स्ट में अनुसूचित जाति और जनजाति के लोगों की हाई कोर्ट के जजिस और सुप्रीम कोर्ट के जजिस के पदों पर नियुक्तियां हुई थीं।

मेरा प्रश्न मंत्री जी से यह है कि यदि इस प्रकार की प्रथा और ट्रेडिशन पहले से चला आ रहा है तो क्या आज जो संख्या है सुप्रीम कोर्ट में और हाई कोर्ट में, सुप्रीम कोर्ट में तो आज एक भी जज नहीं है जो शैडयूल्ड कास्ट या उससे संबंधित हो लेकिन हाई कोर्ट में जजिस हैं, और उसमें जो कमी आई है तो क्या इस संख्या को बढ़ाने के लिए कोई ऐसा मेकेनिज्म डेवलप करेंगे ताकि वह संख्या पूरी हो और आगे बढ़ती रहे।

SHRI RAM JETHMALANI: Sir, this is a delicate matter and we have to weigh our words before we answer all these questions. First of all, I do wish to tell my learned friend that we had promised a convention to be called, and the convention is being called on the 5th, 6th and 7th of this month. These issues we will consider and debate. Sir, the most delicate circumstance is that I do not want it to be said of any Judge belonging to this community, that he has gone there because he is a member of that community, but he is not, otherwise, qualified. Kindly bear this delicate matter in mind and don't force out answers on this issue; be sure that nobody is more committee to giving them proper representation in every sphere of our political life than I am and my Government is.

MISS MABEL REBELLO: Sir, I feel there is a definite gender bias in appointment of Judges in the Supreme Court and the High Courts. Sir, amongst the 25 Supreme Court Judges, there is not a single woman today, and amongst the 464 Judges in the High Courts, there are only 17 women. We are talking about 33 per cent reservation for women in Parliament. What about reservation for women in the Judiciary? Does the Hon. Minister have the will and the desire to rectify this situation?

SHRI RAM JETHMALANI: My worst enemies have never accused me of having had any bias against women. I can assure the hon. Member, that at the moment, there is no lady Judge in the Supreme Court. And in some of the High Courts, women are not adequately represented. Everything is being done to ...*(Interruptions)*... Everything will be done and everything is being done to cure that deficiency.

श्री संघ प्रिय गौतमः सभापति जी, 1919 में न्यायपालिका का भारतीयकरण प्रारंभ हुआ था और भारत सरकार के अधिनियम 1919 में यह प्रावधान बना था कि कोटा रिज़र्वेशन के आधार पर भारतीय लोग न्यायपालिका में भर्ती होंगे। जिस प्रकार आज अनुसूचित जाति और जनजाति के लोग प्रतिनिधित्व मांगते हैं, उसी प्रकार भारत के लोग प्रतिनिधित्व मांगते थे और उसके लिए प्रावधान बना। वही प्रावधान भारत सरकार अधिनियम 1935 में बना और उसी बात की पुष्टि ऐडवोकेट्स ऑन रिकॉर्ड वर्सेज़ यूनियन ऑफ इंडिया में हुई जो अभी सर्वोच्च न्यायालय ने 1994 में निर्णय दिया जिसमें सर्वोच्च न्यायालय के वर्तमान मुख्य न्यायाधीश स्वयं बेंच में उपस्थित थे। उन्होंने भी इस बात को स्वीकार किया कि सर्वोच्च न्यायालय और उच्च न्यायालयों में अनुसूचित

जाति-जनजाति और महिला जजेज को प्रतिनिधित्व मिलना चाहिए। इस बात के प्रमाण मौजूद हैं कि इन वर्गों में the eligible and the qualified are not asking for any concession on merits. Judges and people are available फिर क्या परेशानी है? इनकी नियुक्ति क्यों नहीं हो रही है और मानदंड क्या है क्वालिफिकेशन का, मैं माननीय मंत्री जी से यह जानना चाहता हूं। Efficiency itself has been defined by the Supreme Court in so many cases and I can refer to those cases. तो उस ऐफिशियेंसी, ऐलिजिबिलटी और क्वालिफिकेशन का मापदंड क्या है और क्या इस बात को ध्यान में रखते हुए इन वर्गों को उन अधिनियमों के आधार पर और सुप्रीम कोर्ट के निर्णय के आधार पर प्रतिनिधित्व दिया जाएगा? महोदय, कनाडा और आस्ट्रेलिया में भी प्रावधान है आरक्षण का, उसको दृष्टिगत रखते हुए क्या इन वर्गों की नियुक्ति होगी?

SHRI RAM JETHMALANI: Sir, the hon. Member is tying to convert the converted. He knows my philosophy; he knows my policy, and he knows the kind of policy that we are advocating in Judicial appointments as well. But, Sir, one thing must be said. The Constitution of India, as it exists today, has a separate chapter for Judiciary, particulary, the highest judicial. It is not governed by other Articles which relate to other Services under the Union and so on. This is a long-standing opinion which exists from the days of Mr. Lal Narain Sinha, when he was the Attorney-General of India. But without calling it reservation, my friend should take it that I will see to it that there is proper representation.

SHRI S.R. BOMMAI: Sir, after the judgement of the Supreme Court, the Executive has no say in the appointment and transfers of Judges of the Supreme Court and the High Court. From time to time, the hon. Law Munister as well as the Prime Minister have publicly said that there is a necessity for a Judicial Commission to be appointed to regulate Judicial appointments and transfers. If that is done, this question of representation can also be solved. I would like to know whether the Government is thinking of appointing a Judicial Commission. If so, when it will be done?

SHRI RAM JETHMALANI: This will receive the highest priority from the Government. I can assure my friend that the necessary legislation is under preparation and it will be introduced at the earliest possible opportunity.

प्रो॰ रामगोपाल यादवः श्रीमन्, अभी कुछ दिन पहले इलाहाबाद हाई कोर्ट में दो दर्जन से

ज्यादा जजेज का अपोइंटमेंट हुआ। मैं माननीय मंत्री जी से यह जानना चाहूंगा कि, नम्बर-1—to my knowledge and belief, not a single member from among those communities has been considered for the post of High Court Judge—इन नियुक्तियों में किसी एस०सी०, एस०टी० उम्मीदवार या किसी वकील के नाम पर उनकी स्क्रूटनी के लिए, अपोइंटमेंट के लिए विचार किया गया? या बिना विचार किए ही मान लिया गया कि वे क्वालिफाइड नहीं हैं जज बनने के लिए? दूसरे, क्या यह सच है कि उन नियुक्तियों में कम से कम आधा दर्जन जज ऐसे हैं जो सिटिंग जजेज या रिटायर्ड जजेज के पुत्र हैं? हां, इट इज ए फैक्ट। तो एक तरफ तो आप यह कहते हैं कि हम जाति और उसके आधार पर ऐसा नहीं करते हैं लेकिन दूसरी तरफ यह विचार करते हैं कि जज का लड़का है तो जज हो जाना चाहिए। My point is whether he is qualified or not. तमाम ऐसे लोग हैं जो सीनियर जजेज हैं जिनके नामों को कंसीडर नहीं किया गया। अगर कंसीडर करके रिजेक्ट कर दिया जाए तो हमें कोई शिकायत नहीं है। कंसीडर ही नहीं किया जा रहा है। इसका क्या कारण है?

SHRI RAM JETHMALANI: It is impossible, without adequate notice, for a Law Minister to carry in his brain the facts and figures about every High Court and the names and particulars about the people who have been recently recruited in any High Court, even the Allahabad High Court. If my friend wants that information, I will look into it and give that information to my friend. But I can assure him, as far as my memory goes—I speak subject to correction, after reference to the file—the recruitment, which has taken place in Allahabad, is of District Judges who have been promoted to the High Court, and the recruitment from the Bar has not taken place. Now, different considerations will apply when you are recruiting members from the Bar.

PROF. RAM GOPAL YADAV: I will give you the names of the Judges who are the sons of retired Judges or sitting Judges. I will provide you the list.

SHRI RAM JETHMALANI: Sir, I have no such information. If a son of a High Court Judge has become a High Court Judge, that, by itself, is not a disqualification.

SHRI HANSRAJ BHARDWAJ: Sir, I have a very limited question to put to the hon. Minister. Mr. Minister, is it a fact that

you have not agreed with some of the proposals of the collegium for appointment in the Supreme Court? You have recommended certain names and you have sent them to the Chief Justice of India for appointment as Judges of the Supreme Court. Have you mentioned any names from the Scheduled Castes and the Scheduled Tribes in your own letter, while recommending names for appointment as Judges of the Supreme Court?

SHRI RAM JETHMALANI: Sir, I understand that the hon. Member has extraordinary sources for collecting information. My friend is right. A proposal did emanate from the Supreme Court about the appointment of Judges in the Supreme Court. About one of them, I had serious reservations. I made enquiries and I found that my reservations were justified. I shared them with the Supreme Court and the Supreme Court was graciously pleased to withdraw its proposal. That position is still lying vacant.

SHRI HANSRAJ BHARDWAJ: I am sorry. Have you mentioned in your own letter any names from the Scheduled Castes and the Scheduled Tribes? I am not bothered about what you did with that one name. You have recently sent some more names. Have you included the name of anyone from the Scheduled Castes in that?

SHRI RAM JETHMALANI: I am not in a position to really tell you whether that person belongs to the Scheduled Caste or not. But I will again find it out.

SHRI R. MARGABANDU: Sir, from Tamil Nadu, ten names were recommended by the Tamil Nadu Chief Minister and the Chief Justice of the High Court. That panel had been returned on the ground that there was no representation from the Scheduled Castes or from the other Backward Classes. Then, once again, the same list has been sent this year Unfortunately, no names from the major communities in Tamil Nadu, Vanniyars and Scheduled Castes, find a place in that list. Now, in Tamil Nadu, there is a demand from political parties and from several other quarters that names of one or two Vanniyars and Scheduled Caste people should be included in that list. I would like to know whether the Government is going to take any steps to see that some persons from these two communities are appointed. From this answer I am given to understand that the Chief

Justices of Tamil Nadu were from other States. They may not be knowing about the community background of that State. The Chief Minister of that State may have recommended this because this letter has been addressed to the Chief Minister of the State. Chief Justices of the High Court from time to time request them to locate persons from several other categories. I would like to know whether the Chief Minister of the Tamil Nadu has recommended any name from these two communities, especially from the most backward communities, for appointment.

SHRI RAM JETHMALANI: Sir, I require a special notice to be able to collect this information. This information is not available with me at the moment.

SHRI N. THALAVAI SUNDARAM: Sir, as far as the Tamil Nadu is concerned, names of 11 advocates and district Judges have been proposed for the High Court of Madras. Now, I request the hon'ble Minister to include the name of the Chief Justice of Tamil Nadu, who belongs to SC community, in the panel of Supreme Court Judges. All the ten persons whose names have been published in the newspaper, are from other communities and not from SC/ST. I would like to know from the hon'ble Minister whether he has taken any steps to include people from SC/ST community, so far as the Madras High Court is concerned.

SHRI RAM JETHMALANI: Sir, we expect the Chief Justice who belongs to that community to be very much concerned about appointing deserving people from the community, but since the hon'ble Member has specifically drawn my attention, I will certainly look into the matter and find out what the real position is and rectify it as early as possible.

†श्री शरीफ-उद्-दीन शरीक: ऑनरेबल चेयरमैन सर, हाल ही में हमारी अदालते आलिया की गोल्डन जुबली के सिलसिले में हमारे वज़ीरे आज़म साहब का एक बयान हमने अखबार में पढ़ा जिसमें अदालती सिस्टम की एक भयानक सूरत सामने आई है। लाखों करोड़ों केस पेंडिंग हैं मुख्तलिफ अदालतों में और सालहा साल से। बाप मरता है तो उसका बेटा उसमें इंप्लिकेट होता है। वह मर जाता है और तीसरी पीढ़ी तक यह अदालतों में चलता रहता है। अगर यह इंसाफ

†Transliteration of the speech in Persian Script is available in the Hindi version of the Debate.

है तो फिर बेइंसाफी किस चीज़ को कहेंगे हम? इस तरह दर्जनों अदालतों में जजेस की आसामियां खाली पड़ी हुई हैं। क्या जनाबे लॉ मिनिस्टर साहब कोई टाईम बाउंड बात कहेंगे कि कब तक ये सारी जगहें पूरी की जाएंगी ताकि लोगों को वक्त पर इंसाफ मिल सके?

SHRI RAM JETHMALANI: Sir, this is a hundred-years-old disease. And hon'ble Members should not expect me to remove that disease in a couple of days. It will take a little time, but I can assure my friend that within less time than he thinks reasonable, this sickness of the judicial system will be cured.

श्री नरेश यादव: सर, मेरा एक महत्वपूर्ण सवाल है। ...(व्यवधान)...

श्री रामदेव भंडारी: हमारी पार्टी की ओर से किसी को मौका नहीं दिया गया है।

MR.CHAIRMAN: Already ten questions have been asked. This is not party-wise I have tried to distribute it. *(Interruptions)*

श्री नरेश यादव: पार्टी वाइज़ न करें, क्लास वाइज़ तो करें। ...(व्यवधान)... न्यायपालिका में शोषण तो हो ही रहा है।

श्रीमती सरोज दुबे: महिला वर्ग का भी नहीं हुआ है।

श्री सभापति: महिला वर्ग का पहले हो गया। ...(व्यवधान)...

कुमारी सरोज खापर्डे: सर, हम भी सवाल पूछने के लिए खड़े होते हैं, हम भी सवाल उठाते हैं लेकिन It is very unfortunate. I was forced to raise my hand. *(Interruptions)*.

Recommendations of Lahoti Commission

*23. SHRI ANANTRAY DEVSHAKER DAVE: Will the Minister of CIVIL AVIATION be pleased to state:

(a) whether it is a fact that the Court of Inquiry under the Chairmanship of Mr. Justice R.C. Lahoti of Delhi High Court was appointed by the Central Government, to inquire the mid-air collision of Saudi Airlines B-747 and Kazakistan IL-76 aircrafts near Delhi;

(b) what are the main features of the enquiry report;

(c) whether the Court of Enquiry has held responsible either of the parties and suggested reasons therefor; and

(d) what action has been taken by Government thereon?